

72. (New) The contraceptive device of claim 68 wherein the tubular body is self expanding to the second expanded configuration.

REMARKS

Response to Rejections based on Double Patenting

Claims 1-42 are rejected by the Examiner under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-45 of U.S. Patent No. 6,432,115.

Applicants also wish to claim the priority of pending application Serial No. 08/770,123, filed on December 18, 1996. The specification has been amended to reflect the reliance upon this earlier filed application. The entire delay between the time the claim for priority was due to the filing date of this response was unintentional. A fee under 37 C.F.R. § 1.17(t) has been charged to the Deposit Account No. 04-1679.

Applicants have filed concurrently herewith a terminal disclaimer with respect to the present application. Therefore the rejection based upon double patenting is rendered moot. Reconsideration and withdrawal of this rejection is earnestly solicited.

By: 

Edward J. Lynch
Registration No. 24,422
Attorney for Applicants

DUANE MORRIS LLP
One Market
Spear Tower, Suite 2000
San Francisco, CA 94105
Telephone: (415) 371-2200
Facsimile: (415) 371-2201
Direct Dial: (415) 371-2267

16

Serial No. 09/911,551
Atty: Docket No. R0371-00402

Best Available Copy

B